

TWENTY-EIGHTH DAY - FEBRUARY 15, 2005

LEGISLATIVE JOURNAL

**NINETY-NINTH LEGISLATURE
FIRST SESSION**

TWENTY-EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, February 15, 2005

PRAYER

The prayer was offered by Pastor Paul Coen, Luther Memorial Lutheran Church, Syracuse.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Landis who was excused; and Senators Beutler, Byars, Combs, Foley, Price, and Wehrbein who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-seventh day was approved.

NOTICE OF COMMITTEE HEARING

Appropriations
Room 1003

LB 250 Friday, February 25, 2005 1:30 p.m.

Friday, February 25, 2005 1:30 p.m.

AGENCY 16 - Department of Revenue

AGENCY 93 - Tax Equalization and Review Commission

AGENCY 96 - Department of Property Assessment and Taxation

(Signed) Don Pederson, Chairperson

MOTIONS - Approve Appointments

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 498:

Department of Aeronautics

Stuart MacTaggart

Voting in the affirmative, 35:

Aguilar	Engel	Hudkins	Langemeier	Raikes
Baker	Erdman	Janssen	Louden	Schimek
Bourne	Fischer	Jensen	McDonald	Schrock
Connealy	Flood	Johnson	Mines	Smith
Cornett	Friend	Kopplin	Pahls	Stuhr
Cudaback	Heidemann	Kremer	Pedersen, Dw.	Stuthman
Cunningham	Howard	Kruse	Pederson, D.	Synowiecki

Voting in the negative, 0.

Present and not voting, 7:

Brashear	Burling	Preister	Thompson
Brown	Chambers	Redfield	

Excused and not voting, 7:

Beutler	Combs	Landis	Wehrbein
Byars	Foley	Price	

The appointment was confirmed with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Senator Schimek moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 498:

State Personnel Board
Samuel Seever

Voting in the affirmative, 30:

Baker	Cunningham	Howard	Kruse	Redfield
Bourne	Engel	Hudkins	Louden	Schimek
Burling	Erdman	Janssen	McDonald	Smith
Connealy	Flood	Johnson	Pahls	Stuhr
Cornett	Friend	Kopplin	Pedersen, Dw.	Stuthman
Cudaback	Heidemann	Kremer	Raikes	Synowiecki

Voting in the negative, 0.

Present and not voting, 13:

Aguilar	Chambers	Jensen	Pederson, D.	Thompson
Brashear	Fischer	Langemeier	Preister	
Brown	Foley	Mines	Schrock	

Excused and not voting, 6:

Beutler	Combs	Price
Byars	Landis	Wehrbein

The appointment was confirmed with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 126. Senator McDonald renewed her pending amendment, AM0086, found on page 499 and considered on pages 509 and 510.

Senator McDonald withdrew her amendment.

Senator Loudon withdrew his pending amendment, AM0075, found on page 502.

Senator Beutler withdrew his pending amendments, FA19 and FA20, found on page 503.

Senator Smith withdrew his pending amendment, FA21, found on page 503.

Senator Fischer withdrew her pending amendment, AM0400, found on page 510.

Senator Burling withdrew his pending amendment, AM0415, found on page 510.

Senator Fischer withdrew her pending amendment, AM0100, found on page 511.

Senator Flood withdrew his pending amendment, AM0418, found on page 513.

Advanced to E & R for review with 33 ayes, 8 nays, 6 present and not voting, and 2 excused and not voting.

STANDING COMMITTEE REPORTS

Banking, Commerce and Insurance

LEGISLATIVE BILL 693. Placed on General File.

LEGISLATIVE BILL 97. Placed on General File as amended.

Standing Committee amendment to LB 97:

AM0172

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 76-239, Reissue Revised Statutes of

4 Nebraska, is amended to read:

5 76-239. (1) After the expiration of ten years from the
6 date of maturity of any debt, or other obligation, secured by a
7 deed of trust, mortgage, or real estate sale contract, as stated in
8 or ascertainable from the record of such deed of trust, mortgage,
9 or contract; and, in cases where the date of such maturity cannot
10 be ascertained from such record, after the expiration of ~~twenty~~
11 thirty years from the date of such deed of trust, mortgage, or
12 contract, the record of any deed of trust, mortgage, or real estate
13 contract that has been recorded shall cease to be notice of the
14 existence and lien of such deed of trust, mortgage, or contract as
15 to subsequent encumbrancers and purchasers for value whose deeds,
16 deeds of trust, mortgages, or other instruments shall be thereafter
17 executed and recorded. Such deed of trust, mortgage, or contract
18 shall be conclusively presumed to have been fully paid and
19 discharged; and the record thereof shall thereupon cease to be or
20 constitute notice of the existence or lien thereof and shall be
21 wholly void; and thereafter shall not be construed to be any part
22 of the public records in the office of the register of deeds as
23 against subsequent purchasers and encumbrancers for value.

24 (2) Prior to the termination of the record and notice ~~as~~
1 ~~hereinbefore provided pursuant to subsection (1) of this section,~~
2 the owner and holder of the deed of trust, mortgage, or contract
3 may file for record with the register of deeds an affidavit to the
4 effect that ~~said~~ the deed of trust, mortgage, or contract is unpaid
5 and is still a valid and subsisting lien. Upon the filing of such
6 affidavit the record of the deed of trust, mortgage, or contract
7 shall continue to exist; and be valid as notice of the existence of
8 such deed of trust, mortgage, or contract and of any lien thereof,
9 for an additional period of ten years from the date of the filing
10 of such affidavit. The owner and holder of such deed of trust,
11 mortgage, or contract may alternatively file for record with the
12 register of deeds a duly executed written extension agreement
13 thereof; in which event the record of the deed of trust, mortgage,
14 or contract shall continue to exist; and be valid as notice of the
15 existence of such deed of trust, mortgage, or contract and of any
16 lien thereof, for an additional period of ten years from the
17 maturity of the deed of trust, mortgage, or contract debt as shown
18 by the recorded extension agreement.

19 (3) Such periods of notice may be successively extended
20 for additional periods. ~~However, ; PROVIDED, that~~ this section
21 shall not be ~~so~~ construed as to extend the time within which an
22 action on any deed of trust, mortgage, or contract may be
23 instituted, or in any manner to alter or amend the time within
24 which any action on a deed of trust, mortgage, or contract may be
25 brought under the general laws of this state. ~~This ; AND PROVIDED~~
26 ~~FURTHER, that the provisions of this section also~~ shall not apply
27 to mortgages or deeds of trust and instruments supplementary or
1 amendatory thereto covering real estate as well as personal

2 property, such property constituting a portion of property used in
 3 carrying on the business of a public utility or a gas or oil
 4 pipeline system, and executed to secure the payment of money. The
 5 lien of ~~such~~ mortgages or deeds of trust and supplements and
 6 ~~amendments and supplements~~ thereto shall continue in force and
 7 effect as to any interest of the mortgagor in the real estate
 8 described therein, together with personal property, without the
 9 necessity of such renewal affidavit or extension agreement being
 10 made and filed, and notwithstanding that the same may have been on
 11 file for the period of time set out in this section. The ;
 12 ~~PROVIDED, that the~~ mortgage or deed of trust or instruments
 13 supplementary or amendatory thereto ~~discloses~~ shall disclose that
 14 the mortgagor or grantor therein is then carrying on the business
 15 of a public utility or a gas or oil pipeline system or the
 16 mortgagor or grantor has filed an affidavit to that effect for
 17 record with the register of deeds.
 18 (4) It is the intent of the Legislature that the changes
 19 made by this legislative bill shall not affect or alter the status
 20 of any deed of trust, mortgage, or real estate sales contract
 21 rendered void prior to the effective date of this act.
 22 Sec. 2. Original section 76-239, Reissue Revised
 23 Statutes of Nebraska, is repealed."

(Signed) Mick Mines, Chairperson

Natural Resources

LEGISLATIVE BILL 154. Indefinitely postponed.

LEGISLATIVE BILL 189. Indefinitely postponed.

(Signed) Ed Schrock, Chairperson

Banking, Commerce and Insurance

The Banking, Commerce and Insurance Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

John Munn - Department of Banking and Finance

VOTE: Aye: Senators Mines, Redfield, Flood, Jensen, Johnson, Langemeier, Loudon, Pahls. Nay: None. Absent: None.

(Signed) Mick Mines, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 150A. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 150, Ninety-ninth Legislature, First Session, 2005.

AMENDMENT - Print in Journal

Senator Chambers filed the following amendment to LB 96:
AM0434

(Amendments to E & R amendments, AM7005)

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 85-507, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 85-507. The spouse and children of any member of the
- 5 Nebraska National Guard who dies while serving in the active
- 6 service of the state shall be entitled to a credit of one hundred
- 7 percent of the tuition charges in any state-supported university,
- 8 college, or community college, ~~or any independent, not-for-profit,~~
- 9 ~~regionally accredited college or university in this state, except~~
- 10 ~~that any spouse or child who attends an independent,~~
- 11 ~~not-for-profit, regionally accredited college or university in this~~
- 12 ~~state shall receive a credit in an amount no higher than that~~
- 13 ~~spouse or child would receive if he or she attended the University~~
- 14 ~~of Nebraska-Lincoln.~~ Such tuition credit shall be for any
- 15 undergraduate course of education not exceeding four years, except
- 16 that no credit shall be granted to the spouse after the tenth
- 17 anniversary of the member's death and no credit shall be granted to
- 18 a child after such child's twenty-fifth birthday. All persons
- 19 eligible for tuition credit under this section shall obtain a
- 20 certificate of eligibility from the Adjutant General of the
- 21 Nebraska National Guard and present such certificate to the
- 22 educational institution."
- 23 2. On page 1, strike beginning with "or" in line 7
- 1 through "university" in line 8 and show as stricken; strike
- 2 beginning with the comma in line 10 through the period in line 14,
- 3 show as stricken, and insert an underscored period; in line 14
- 4 strike "section 85-505" and insert "sections 85-505 and 85-507";
- 5 and in line 15 strike "is" and insert "are".
- 6 3. Renumber the remaining section accordingly.

GENERAL FILE

LEGISLATIVE BILL 533. Title read. Considered.

The Standing Committee amendment, AM0238, printed separately and referred to on page 447, was considered.

PRESIDENT SHEEHY PRESIDING

Senator Bourne renewed his pending amendment, FA22, found on page 514, to the Standing Committee amendment.

The Bourne amendment was adopted with 26 ayes, 0 nays, 17 present and not voting, and 6 excused and not voting.

Pending.

ANNOUNCEMENTS

The General Affairs Committee designates LB 563 as its priority bill.

Senator Flood designates LB 217 as his priority bill.

Senator Price designates LB 146 as her priority bill.

RESOLUTION

LEGISLATIVE RESOLUTION 42. Introduced by Howard, 9; Brown, 6; Jensen, 20; Cornett, 45; Preister, 5; Thompson, 14.

WHEREAS, Susie Buffett was a strong advocate for the poor and disadvantaged of the world, helping to raise millions for third world debt relief, AIDS, and Africa; and

WHEREAS, Susie Buffett was a humanitarian who spoke for disadvantaged women around the world, establishing programs across the globe; and

WHEREAS, as President of the Buffett Foundation oversaw the distribution of funds to hospitals, universities, and teachers across the nation; and

WHEREAS, her generous contributions to the Buffett Foundation upon her death will possibly produce donations of \$150 million a year and help people across Nebraska, the United States, and the world; and

WHEREAS, Susie Buffett is celebrated for her work in social justice, working for civil rights, low income housing, and educational organizations throughout the 1960s; and

WHEREAS, according to Omaha Central High School's Hall of Fame, Susie Buffett's leadership was responsible, more than any other parent, for keeping Central "central". Her work in lobbying the school board and raising money from the business community helped Central maintain its position as a quality institution; and

WHEREAS, Buffett left an outstanding legacy of philanthropy in Omaha, contributing both financially and emotionally to Girls Inc., a developmental center for at-risk girls in north Omaha and Omaha Central High School,

promoting Nebraska values to generations of children.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature of the State of Nebraska honors the memory of Susie Buffett and her many achievements for the betterment of humankind; and

2. That a copy of this resolution be sent to the Buffett family.

Laid over.

AMENDMENTS - Print in Journal

Senator Loudon filed the following amendment to LB 54:
AM0433

- 1 1. Insert the following new sections:
- 2 "Sec. 6. (1) Notwithstanding any provision of section
- 3 37-407 to the contrary, a Nebraska resident who purchased a
- 4 hunting, fishing, or combination hunting and fishing permit and who
- 5 was deployed out of state with a branch of the United States
- 6 military shall be entitled to receive a discounted permit on a
- 7 one-time basis upon returning to the state if the resident:
- 8 (a) Provides to the commission satisfactory proof of
- 9 purchase of the original permit and evidence of the resident's
- 10 deployment out of state during the period of the original permit;
- 11 and
- 12 (b) Was deployed out of state for more than one-half of
- 13 the period of the original permit.
- 14 (2) The commission shall establish a fee of five dollars
- 15 for the discounted permit. The commission may authorize electronic
- 16 issuance of the discounted permit.
- 17 (3)(a) Notwithstanding any provision of section 37-407 to
- 18 the contrary, a Nebraska resident who purchased a big game permit
- 19 and who was deployed out of state with a branch of the United
- 20 States military for the entire season of the hunt and who was
- 21 unable to use the permit shall be entitled to receive a discounted
- 22 permit on a one-time basis upon returning to the state if the
- 23 resident provides to the commission satisfactory proof of purchase
- 24 of the original permit and evidence of the resident's deployment.
- 1 (b) For purposes of this subsection, big game means
- 2 antelope, deer, elk, mountain sheep, and wild turkeys.
- 3 (4) The commission may adopt and promulgate rules and
- 4 regulations that set forth the procedures for applying for, and the
- 5 issuance of, the discounted permit.
- 6 Sec. 7. Section 37-201, Reissue Revised Statutes of
- 7 Nebraska, is amended to read:
- 8 37-201. Sections 37-201 to 37-811 and section 6 of this
- 9 act shall be known and may be cited as the Game Law.
- 10 Sec. 8. Section 37-407, Reissue Revised Statutes of
- 11 Nebraska, is amended to read:

12 37-407. ~~The~~ Except as provided in section 6 of this act,
 13 the commission shall establish fees pursuant to section 37-327 to
 14 be paid to the state for resident and nonresident hunting permits,
 15 annual fishing permits, three-day fishing permits, combined fishing
 16 and hunting permits, and fur-harvesting permits, as follows:
 17 (1) Resident fees shall be (a) not less than eleven
 18 dollars and not more than thirteen dollars for hunting, (b) not
 19 less than fifteen dollars and not more than seventeen dollars and
 20 fifty cents for fishing, (c) not less than ten dollars and not more
 21 than eleven dollars and fifty cents for a three-day fishing permit,
 22 (d) not less than twenty-five dollars and not more than twenty-nine
 23 dollars for both fishing and hunting, and (e) not less than fifteen
 24 dollars and not more than twenty dollars for fur harvesting; and
 25 (2) Nonresident fees shall be (a) not less than resident
 26 fees and not more than two hundred sixty dollars for a period of
 27 time specified by the commission for fur harvesting one thousand or
 1 less fur-bearing animals and not less than fifteen dollars
 2 additional and not more than seventeen dollars and fifty cents
 3 additional for each one hundred or part of one hundred fur-bearing
 4 animals harvested, (b)(i) for persons sixteen years of age and
 5 older, not less than sixty-seven dollars and not more than eighty
 6 dollars for hunting and (ii) for persons under sixteen years of
 7 age, not less than the fee required pursuant to subdivision (1)(a)
 8 of this section for hunting, (c) not less than fourteen dollars and
 9 not more than sixteen dollars and fifty cents for a three-day
 10 fishing permit, and (d) not less than forty dollars and not more
 11 than forty-nine dollars and fifty cents for an annual fishing
 12 permit."
 13 2. Amend the operative date and repealer provisions so
 14 that the sections added by this amendment become operative on July
 15 1, 2004.
 16 3. Renumber the remaining sections and correct internal
 17 references accordingly.

Senator Synowiecki filed the following amendment to LB 40:
 AM0299

1 1. Insert the following new section:
 2 "Section 1. Section 58-706, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 58-706. The following activities are eligible for
 5 assistance from the Affordable Housing Trust Fund:
 6 (1) New construction, rehabilitation, or acquisition of
 7 housing to assist low-income and very low-income families and
 8 adults with serious mental illness;
 9 (2) Matching funds for new construction, rehabilitation,
 10 or acquisition of housing units to assist low-income and very
 11 low-income families and adults with serious mental illness;
 12 (3) Technical assistance, design and finance services,
 13 and consultation for eligible nonprofit community or

- 14 neighborhood-based organizations involved in the creation of
15 affordable housing;
16 (4) Matching funds for operating costs for housing
17 assistance groups or organizations when such grant or loan will
18 substantially increase the recipient's ability to produce
19 affordable housing, including such housing for adults with serious
20 mental illness;
21 (5) Mortgage insurance guarantees for eligible projects;
22 (6) Acquisition of housing units for the purpose of
23 preservation of housing to assist low-income or very low-income
24 families;
1 (7) Projects making affordable housing more accessible to
2 families with elderly members or members who have disabilities;
3 (8) Projects providing housing in areas determined by the
4 Department of Economic Development to be of critical importance for
5 the continued economic development and economic well-being of the
6 community and where, as determined by the department, a shortage of
7 affordable housing exists;
8 (9) Infrastructure projects necessary for the development
9 of affordable housing;
10 (10) Downpayment and closing cost assistance;
11 (11) Housing education programs developed in conjunction
12 with affordable housing projects. The education programs must be
13 directed toward:
14 (a) Preparing potential home buyers to purchase
15 affordable housing and postpurchase education;
16 (b) Target audiences eligible to utilize the services of
17 housing assistance groups or organizations; and
18 (c) Developers interested in the rehabilitation,
19 acquisition, or construction of affordable housing; and
20 (12) Rental assistance for adults with serious mental
21 illness."
22 2. On page 5, line 25, after "sections" insert
23 "58-706,".
24 3. Renumber the remaining sections accordingly.

Senator Jensen filed the following amendment to LB 175:
AM0227

- 1 1. Strike original sections 2 to 5 and all amendments
2 thereto and insert the following new section:
3 "Sec. 2. Original section 71-1,107.30, Reissue Revised
4 Statutes of Nebraska, is repealed."

Senator Jensen filed the following amendment to LB 176:
AM0341

- 1 1. On page 3, line 12, strike "deemed", show as
2 stricken, and insert "construed"; strike the new matter in lines 17
3 through 20; in line 21 reinstate the stricken matter and strike the
4 new matter; strike beginning with the underscored period in line 23

5 through "if" in line 24; and in line 24 reinstate the stricken
6 matter.

VISITORS

Visitors to the Chamber were Youth Leadership Tomorrow from Hall County; sixth-, seventh-, and eighth-grade students and teachers from District 22 School, Dawson; and Wendall Gaston from Sidney.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Smith, the Legislature adjourned until 9:00 a.m., Wednesday, February 16, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

